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**IN RE: CONDITIONAL USE : BEFORE THE UPPER UWCHLAN
APPLICATION OF TOLL : TOWNSHIP BOARD OF SUPERVISORS
MID-ATLANTIC LP COMPANY, INC. : CHESTER COUNTY, PENNSYLVANIA**

DECISION AND ORDER

On August 21, 2021, Toll Mid-Atlantic LP Company, Inc. ("Applicant") filed an application (the "Application") seeking conditional use approval pursuant to Section 200-72.B(2)(a) of the Upper Uwchlan Township Zoning Ordinance of 1989, as amended (the "Ordinance"), to develop certain property located in the R-2 Residential District and the F-1 Flexible Development Overlay District with 64 single family dwellings using the flexible/open space development option. Applicant is the equitable owner of the following two parcels of property located in Upper Uwchlan Township: (i) Chester County Tax Parcel No. 32-1-17.1; and (ii) Chester County Tax Parcel No. 32-1-11 (the "Property").

On October 4, 2021, Applicant amended the Application to also seek conditional use approval under the following sections of the Ordinance:

- (i) Section 200-107.D(3)(b)[1] to permit portions of dwellings within areas of precautionary slopes;
- (ii) Section 200-107.D(3)(b)[2] to permit roads providing primary access¹ to the lots in the development to be located in areas of precautionary slopes; and

¹ Section 200-107.D(3)(b)[2] permits by conditional use "any road necessary to provide preliminary access to a use permitted by this chapter, when no practical alternative exists in an area of lesser slope." The Board believes that the word "preliminary" is a typographical error and interprets this to mean "primary" access.

(iii) Section 200-107.D(3)(b)[4] to permit sanitary and storm sewer conveyances to be located in areas of precautionary slopes.

In order to develop the Property as contemplated on the plans submitted with the Application, Applicant will also require a variance from Section 200-107.D(2) to disturb areas of prohibitive steep slopes in order to construct portions of the access road labeled as "Road A" leading from Greenridge Road.

The Board conducted public hearings on the Application on the following dates, times and locations:

- November 15, 2021 immediately following the monthly Board meeting at 6:30 p.m.;
- January 18, 2022 immediately following the monthly Board meeting commencing at 6:30 p.m. at Pickering Valley Elementary School;
- February 22, 2022 at 6:30 p.m. at the Pickering Valley Elementary School;
- March 29, 2022 at 6:30 p.m. at Shamona Creek Elementary School;
- May 9, 2022 at 6:00 p.m. at Pickering Valley Elementary School;
- May 23, 2022 at 6:30 p.m. at Pickering Valley Elementary School;
- June 22, 2022 at 6:00 p.m. at the Township Building;
- July 27, 2022 at 6:00 p.m. at the Township Building; and
- August 9, 2022 at 6:00 p.m. at the Township Building.

Applicant appeared at all hearings represented by its counsel, Alyson M. Zarro, Esquire from Riley Riper Hollin & Colegreco, P.C. The Board was represented by Township Solicitor, Kristin S. Camp, Esquire.

The individuals listed on Exhibit A which is attached hereto were admitted as parties.

At the conclusion of the hearing on August 9, 2022, the evidentiary record was closed. In correspondence dated August 18, 2022, Applicant granted the Board an extension of time until October 11, 2022 to render a decision. The Board voted at the October 11, 2022 public meeting to approve the Application with the conditions listed in this Decision.

From the testimony and exhibits presented at the hearings, the Board makes the following:

FINDINGS OF FACT

Procedural Requirements

1. All facts set forth in the introductory paragraphs above are incorporated herein by reference and are deemed to be factual findings of the Board.
2. The original hearing held on November 15, 2021 was advertised in the *Daily Local News* on November 1, 2021 and November 8, 2021. See Exhibit B-3.
3. The Property was posted with a copy of the public notice of the November 15, 2021 hearing on October 26, 2021. See Exhibit B-4.
4. The Township mailed a copy of the public notice of the November 15, 2021 hearing to the property owners who are identified on Exhibit B-5.
5. Applicant is the equitable owner of the Property pursuant to an Agreement of Sale executed by the legal owners, Richard T. Williams and Bonnie C. Williams, on May 12, 2021. See Exhibit A-6.

Description of Property

6. The Property contains 65.95 gross acres and 59.08 net acres after deducting areas of right of way, utility easements, floodplain areas, wetlands, and 75% of prohibitive slopes.

7. The Property is located on the northwesterly side of Greenridge Road, south of Shea Lane, to the west of Font Road and to the east of the Stonehedge residential development.

8. The Property is bound by Greenridge Road and residential dwellings to the south and lots with residential dwellings to the north, west, and east.

9. The Property is improved with a single family detached dwelling, a detached garage, shed, swimming pool, tennis court, stone walls and a long, steep driveway that traverses in a northerly direction from Greenridge Road to the existing improvements on the Property.

10. The Property contains the following natural features: (i) 49.21 acres of woodlands/hedgerow; (ii) 0.30 acres of wetlands and watercourses; (iii) 0.88 acres of floodplain designated by FEMA as Zone A Floodplain and floodplain soils; (iv) 1.62 acres designated as riparian buffer pursuant to Sections 162-5 and 162-55.D of the Township Subdivision and Land Development Ordinance ("SALDO"); (v) 7.3 acres of prohibitive steep slopes (slopes greater than 25%); and (vi) 26.08 acres of precautionary steep slopes (slopes greater than 15%).

11. There is a small stream on the Property that is a tributary to the Black Horse Creek that crosses through the easterly corner of the Property and into a culvert under Greenridge Road. This stream is designated by the Pennsylvania Department of

Environmental Protection (“PaDEP”) as a high-quality stream, and therefore, based on PaDEP regulations requires a 150-foot buffer measured from the top of the stream bank.

Applicant’s Proposed Development and Plan

12. Applicant submitted a plan titled, “Conditional Use Subdivision Plan for Greenridge Road”, prepared by ESE Consultants, Inc. dated August 10, 2021, last revised December 15, 2021, containing 13 sheets (the “Plan”). The Plan was marked as Exhibit A-8 at the hearing.

13. The Plan proposes the subdivision of the Property into 64 lots for single family detached dwellings using the flexible/open space development option in Section 200-72 of the Ordinance.²

14. Applicant proposes to demolish the existing dwelling, garage and accessory structures on the Property. A portion of the existing driveway is proposed to remain and be incorporated into a proposed paved public community trail.

15. No development is proposed in areas of the floodplain or wetlands.

Open Space and Recreation Land

16. Section 200-72.D(1)(a) of the Ordinance requires a minimum of 40% of the gross tract area or 26.38 acres to be restricted as open space. The Plan proposes to maintain 29.19 acres of open space or 44% of the gross tract area. The areas of open space are depicted on Sheet 6 of the Plan in cross hatch.

17. Section 200-69.D(1)(a) of the Ordinance requires a portion of the restricted open space (no less than 15% of the gross tract area) to exclude areas comprised of

² After the Application was filed the Board enacted Ordinance No. 2022-02 on July 18, 2022 which repealed Section 200-72 of the Ordinance. However, because the Application was filed before Ordinance No. 2022-02 was enacted, Applicant is able to subdivide and develop the Property using the flexible/open space development option.

structures or other impervious surfaces permitted within the open space, designated flood hazard districts, wetlands, slopes in excess of 25%, and lands utilized for sewage treatment or disposal or storm water management, except where, at the discretion of the Board of Supervisors, stormwater management facilities are permitted to be included within the minimum required restricted open space in accordance with Section 200-69.D(1)(b)[4].

18. Section 200-69.D(1)(a) of the Ordinance requires 9.899 acres of open space which is usable for a variety of permitted open space purposes. According to Applicant, the Plan proposes to provide 20.98 acres of usable open space.

19. Section 162-54.C of the SALDO requires a minimum of 3.0 acres to be set aside for suitable area for recreation.

20. Applicant asserts that the Plan provides a total of 3.02 acres of land suitable for active recreation which is broken down into the following: (i) variable width paved trail within a 20 foot wide easement covering 0.74 acres; (ii) a 20 foot wide easement along the north side of Greenridge Road for a future public trail encompassing 0.58 acres; (iii) a 6 foot wide nature trail in a 20 foot wide easement that meanders through the steep slope areas to the south of Road A in an area of 1.34 acres; and (iv) a pocket park of .36 acres located between lot 18 and lot 19 near the intersection of proposed Roads B and C.

21. Applicant proposes to construct playground equipment in the pocket park or tot lot located to the north of Road C including park benches and picnic tables. When asked if Applicant could provide additional land for active recreation, Mr. Baionno testified that Applicant could provide additional land suitable for active recreation comprised of

approximately $\frac{3}{4}$ of an acre between proposed lots 3 and 4. If the Board wants Applicant to provide this additional park land, Mr. Baionno indicated that Applicant would have to shift the location of lots 3 and 4.

22. Applicant proposes to convey the open space to a homeowners association which will be created for the development (the "Association") and to restrict the open space from further subdivision or development.

23. Sheet 5 of the Plan is an open space management plan which includes notes and details regarding maintenance and management of the proposed open space areas. The Board and its consultants will review and approve this plan as part of land development.

Parking and Access to the Development

24. Section 200-73.G of the Ordinance requires 3 off street parking spaces per dwelling unit.

25. The Plan proposes 3.5 parking spaces per dwelling unit by providing a two-car garage and a driveway large enough to park two cars.

26. The cartways of the proposed streets are 32 feet wide which complies with the requirement in Section 162-28.A of the SALDO and would permit parking on both sides of the street.

27. The Plan proposes a 5-foot wide concrete sidewalk along one side of the proposed roads, except on a short stretch of Road A in front of lots 58-64 where sidewalk is proposed on both sides of the road.

28. Access to the development is proposed to come from Greenridge Road through an access road labeled as Road A on the Plan.

29. In order to build Road A, Applicant must disturb areas of precautionary slopes which requires a conditional use pursuant to Section 200-107.D(3)(b)[2] and areas of prohibitive slopes which requires a variance from Section 200-107.D(2).

Waivers and Modifications Needed to Build the Plan

30. As required by Section 200-72.B(2)(c)[4] of the Ordinance, Applicant has identified that the Plan will require the grant of the following waivers from the SALDO:

- §162-28.A to limit the widening of Greenridge Road along the Property frontage to less than 16-feet half width.
- §162-30.A to allow a maximum road grade of 11% for approximately 615 linear feet of Road A in the area between lots 4 and 64.
- §162-33.A to allow a single access street.
- §162-33.D to provide a single access street longer than 500 feet in length.
- §162-38.A(3) to permit private driveways within 50 feet of the nearest street right of way line.
- §162-39.E to allow Belgian block curb along all proposed roads in lieu of Class A concrete curb.
- §162-41.A to allow a 5-foot wide sidewalk on only one side of the street.
- §162-46.B to allow the 2.8 acre proposed sanitary sewer disposal lot to have access through a 25 foot wide access easement instead of access to a public street.
- §162-54.D to permit active recreation land to be comprised of greater than 25% environmentally sensitive areas. The Plan proposes that 56% of the open space set aside for active recreation land is comprised of environmentally sensitive areas.
- §162-9(H)(5) and §200-117.I to not be required to prepare a historic resource impact statement.

Testimony from Applicant's Land Planner– Justin Barnett, RLA

31. Applicant presented the testimony of Justin Barnett, RLA, a professional land planner and landscape architect from ESE Consultants, Inc.

32. Mr. Barnett was recognized as an expert in land planning based on the credentials in his curriculum vitae which was admitted as Exhibit A-7.

33. Mr. Barnett presented the Plan which was admitted into the record as Exhibit A-8 and the illustrative conditional use plan which was admitted into the record as Exhibit A-9.

34. According to Mr. Barnett, the majority of the development is located at the high point of the Property and Applicant minimized disturbance of prohibitive and precautionary slopes as well as the existing stream and wetland areas on the eastern portion of the Property.

35. The Plan was revised from the original sketch plan submission to provide one access from Greenridge Road through proposed Road A and an extension of Lauren Lane in the Stonehedge development between lots 43 and 58 to be used only as an emergency access to the development.

36. Mr. Barnett testified that the Plan complies with the area, bulk, density and open space requirements for a flexible/open space development in the R-2 District and F-1 Overlay District.

37. The average lot size proposed on the Plan is approximately 8,000 square feet in area.

38. Section 200-72.D(5)(b) provides that lots measuring 7,000 square feet to less than 12,000 square feet in area are permitted to have a maximum impervious

coverage of 45%. Lots with 12,000 square feet to less than 20,000 square feet are permitted to have a maximum impervious cover of 35%. According to Mr. Barnett, the Plan complies with these maximum impervious cover limits.

39. Section 200-72.D(4)(c)[3] of the Ordinance requires that all proposed dwelling units in the flexible/open space development be situated so that they are set back a minimum of 50 feet from the predevelopment perimeter boundary of the tract, except for existing dwellings.

40. Applicant revised its original sketch plan to increase the width of the setback along the western Property boundary to provide a 50 foot lot setback from the Property boundary to the rear lot lines of the proposed lots in the development. This 50 foot lot setback is shown on Sheet 3 of the Plan ("50 Foot Buffer").

41. Applicant proposes to maintain the existing vegetation in the 50 Foot Buffer, with the exception of the area where the emergency access leading to Lauren Lane is proposed between lots 43 and 58. Applicant also intends to install additional landscaping within the 50 Foot Buffer to supplement the existing vegetation and provide additional screening.

42. Applicant would like to perform grading and plant vegetation within the eastern most 10 feet of the 50 Foot Buffer to supplement the buffer with additional evergreen trees, deciduous trees and shrubs to provide a year round screen.

43. Neighbors who reside in Stonehedge explained that there is an existing post and rail fence on portions of the western Property boundary. Applicant is willing to maintain that fence and supplement it with new fencing in areas where the fence is in disrepair.

44. The Plan proposes disturbance of woodlands on the Property. Applicant will be required to comply with the provisions of Section 162-55.B(3) of the SALDO which limits woodland disturbance and requires replacement trees and plantings.

45. According to Section 200-72.D(2)(b) of the Ordinance, Applicant would be entitled to build a base density equal to the net tract area times 1.1. According to Mr. Barnett, this calculation would allow Applicant to build 65 units.

46. Based on Section 200-72.D(3)(b) of the Ordinance, Applicant would be entitled to a bonus density for providing excess open space than is required. If the Plan provides 44% open space, that would allow an 8% density bonus or 5 additional dwelling units for a total of 70 units.

Applicant's Engineering Testimony-John H. Baionno, P.E.

47. Applicant presented the testimony of John H. Baionno P. E., a civil engineer from ESE Consultants, Inc., who testified as an expert in civil engineering based on the credentials in his curriculum vitae which was admitted as Exhibit A-11.

48. Mr. Baionno testified that it is not practical to construct Road A in an area that completely avoids precautionary slopes and prohibitive slopes.

49. If the Plan provided a means of access from Lauren Lane, any secondary access would have to come from Greenridge Road which would require disturbance of precautionary slopes and prohibitive slopes.

50. Mr. Baionno prepared a Steep Slope Conservation District Narrative dated December 15, 2021, which was admitted as Exhibit A-12 which explains that the Property generally slopes eastwardly down to Greenridge Road with an elevation change of over

240 feet from the area around the existing dwelling to the tributary crossing under Greenridge Road.

51. The topography of the Property has the following: (i) slopes with grades less than 15% covering 32.57 acres; (ii) precautionary steep slopes with grades of 15 to 25% covering 26.08 acres; and (iii) prohibitive steep slopes with grades greater than 25% covering 7.3 acres.

52. The Rendered Conditional Use Plan which was admitted as Exhibit A-9 depicted the prohibitive steep slopes in yellow and the precautionary steep slopes in grey/brown.

53. The Narrative included the following table which breaks down the areas of proposed disturbance of precautionary and prohibitive slopes in order to build the lots, stormwater management facilities, roads, trails and pocket park:

| | Residential Lots | SWM Facilities | Road Right-of-Way | Trails/ Pocket Park | Man-Made Slopes |
|----------------------|------------------|----------------|-------------------|---------------------|-----------------|
| Precautionary | 1.25 ac. | 2.73 ac. | 1.85 ac. | 0.66 ac. | 0.14 ac. |
| Prohibitive | 0.03 ac. | 0.0 ac. | 0.47 ac. | 0.02 ac. | 0.04 ac. |
| Total | 1.28 ac. | 2.73 ac. | 2.32 ac. | 0.68 ac. | 0.18 ac. |
| Estimates Site Total | | | 7.19 ac. | | |

54. According to Mr. Baionno, the proposed disturbance of the prohibitive and precautionary steep slopes complies with the criteria in Section 200-107.E(2) of the Ordinance as outlined on page four of the Narrative.

55. Mr. Baionno also prepared a plan titled, "Greenridge Road Site Precautionary Slopes on Lot" dated May 18, 2022 which was admitted as Exhibit A-26. This plan shows the areas of precautionary steep slopes on each lot in red crosshatch. The areas of precautionary steep slopes on the lots comprise approximately 1.25 acres.

56. Mr. Baionno testified that Applicant will not know what will be built in areas of precautionary slopes until it performs a detailed grading analysis and prepares the land development plans.

57. The Ordinance prohibits any improvements to be constructed in the areas of prohibitive steep slope on the lots.

58. Mr. Baionno also prepared two road profile plans that were admitted as Exhibits A-27 and A-28.

59. These plans depict the road profile and grade of Road A which ranges from a minimum grade of 4% to a maximum grade of 11%.

60. The preliminary design of Road A requires retaining walls to be built on both sides of the road. The exact height of the walls will not be determined until detailed grading plans are prepared, however, Mr. Baionno testified that he expects these walls to be between 20-22 feet in height and span 1,000 feet of the road.

61. Mr. Baionno testified that Road A could be designed with a maximum 10% grade, but it will require more earth disturbance and removal of soil from the Property.

62. Mr. Baionno testified that Applicant will attempt to design Road A in a manner which minimizes the height of the retaining walls.

63. The Township engineers and Planning Commission recommend that the Board not make a decision on the waiver for maximum road grade until land development when Applicant has prepared more detailed grading plans.

64. Applicant also requires a waiver from Section 162-33.D to allow Road A to exceed 500 feet in length. This waiver is necessary because Applicant amended the Plan to eliminate access from Lauren Lane.

Stormwater Management and Erosion and Sedimentation Controls

65. Applicant retained Geo-Technology Associates, Inc. ("GTA") to conduct preliminary soil tests and infiltration testing on June 8, 2021. The results of this testing indicated that the existing soils on the Property have some capacity to infiltrate stormwater runoff.

66. GTA prepared a map or plan labeled "Exploration Location Map" which was admitted as Ex. A-23 and which identified the locations of the test pits that were dug to determine if soils on the Property were suitable for drip irrigation or infiltration of stormwater.

67. Applicant presented a conceptual stormwater management design for the proposed development which includes the construction of five basins.

68. The largest basin, labeled "Basin 1" on the Plan, is located to the south of Road A on the eastern side of the Property, with the other basins located throughout the development.

69. During land development Applicant will prepare more detailed stormwater management plans which must demonstrate compliance with the Township and DEP regulations.

70. Mr. Baionno testified that based on preliminary testing, he believes stormwater management facilities and controls may be designed and built to comply with the Township's Stormwater Management Ordinance, which is codified in Chapter 152 of the Upper Uwchlan Township Code and DEP regulations.

71. The Township Stormwater Ordinance will require Applicant to prove that there will be no increase in the peak rate of stormwater runoff from the Property after development.

72. Mr. Baionno testified that Applicant will prepare a soil erosion and sedimentation control plan which will adhere to the following standards:

- Minimize the extent and duration of earth disturbance to the greatest degree feasible while constructing the proposed development.
- Stabilize disturbed areas in accordance with regulations of the Chester County Conservation District.
- Maximize protection of existing drainage features and vegetation through establishment of conservation areas that protect existing trees and wetland areas.
- Minimize soil compaction by providing a limit of disturbance boundary and a construction sequence.
- Incorporate various BMP measures to prevent or minimize impacts from stormwater runoff.
- Incorporate filter fabric, fence, tree protection, channel lining and other control measures to preserve the quality of downstream waters during construction.
- Install outlet protection at all pipe endwalls to control scour.
- Channel all runoff from disturbed areas into a BMP before exiting the site.

73. Section 162-28.A of the SALDO requires Applicant to widen Greenridge Road along the frontage of the Property. Applicant prepared a plan which shows the proposed road widening which was admitted as Exhibit A-10.

74. This exhibit shows two proposed designs for Greenridge Road. The first proposes widening the road to provide a 16 foot wide southbound travel lane and a 5 foot wide shoulder, while the second design proposes a 16 foot wide southbound travel lane

and a 6 foot wide multi-use trail elevated approximately 17 feet off of the road. Both alternative designs require significant disturbance of steep slopes and existing vegetation.

75. If Applicant is required to widen Greenridge Road to meet SALDO standards, a stone wall along the north side of Greenridge Road will have to be removed.

76. The Township engineers and Planning Commission recommend that the Board defer the decision of whether or not Applicant should be required to widen Greenridge Road in accordance with SALDO standards until land development when more detailed grading plans are prepared and presented.

77. Applicant presented a preliminary jurisdictional determination from the United States Army Corps of Engineers dated March 3, 2022 which confirmed that the areas of wetlands depicted on the Plan were accurate.

78. Because Applicant does not propose any development or disturbance of the wetlands, no further analysis or study will be required by the Army Corps.

79. Applicant proposes to provide public water to the development through Aqua Pennsylvania, Inc. Applicant introduced into the record as Ex. A-13 a "Will Serve" letter from Aqua Pennsylvania, Inc. dated May 19, 2021 which confirmed that the Property is situated within Aqua Pennsylvania's service territory and that the development will require a main extension for service.

80. The water main extension will extend from Lauren Lane which may cause temporary disruption of water service to existing dwellings during the course of construction.

81. Applicant is able to comply with the recommendations made by the Ludwigs Corner Fire Company which are summarized in an undated letter which was admitted as Exhibit B-9.

82. Applicant is not aware if blasting of stone or rock will be necessary during construction of the development.

Applicant's Sewer Engineer -Frederick E. Ebert, P.E.

83. Applicant presented the testimony of Frederick E. Ebert, P.E., a wastewater engineer who was recognized as an expert witness based on the credentials in his curriculum vitae which was admitted as Exhibit A-15.

84. Mr. Ebert testified that Applicant intends to connect the dwellings in the development to the Township's public sewer system.

85. The sewer system for the development will include a gravity collection system to convey the sewer effluent from the dwellings and into collection pipes built in the roads. This collection system will lead to a pump station to be built by Applicant on the Property near Greenridge Road which will then be pumped to an existing pump station at the Reserve at Eagle. From there, the effluent will be pumped to the Route 100 Regional Wastewater Treatment Facility (the "Route 100 Facility") where it will be treated.

86. After treatment, the treated effluent will be pumped from the Route 100 Facility to the Property to be disposed of through a drip irrigation system.

87. Applicant will construct a masonry building on the Property which will contain a dosing pump station and filters which will pump the treated effluent to the drip tubes which are installed in the drip field approximately one foot below the surface of the ground.

88. The sewer collection and conveyance system that Applicant proposes to construct must be reviewed and approved by the Township's Municipal Authority and the PaDEP.

89. Applicant will be required to obtain a Part 2 construction permit from the PaDEP in order to construct the sewer facilities.

90. The Plan proposes the dedication of a 5.4 acre lot located on the southern portion of the Property labeled as "5.4 Acre Sanitary Sewer Disposal Lot", to be used as the primary sanitary sewer disposal field and a proposed 2.88 acre tract located on the northwestern most portion of the Property labeled "2.88 Acre Sanitary Sewer Disposal Lot" as a secondary sewer disposal field.

91. Mr. Ebert analyzed the results of the soil test pits completed by GTA in the area of the proposed 5.4 acre disposal lot and the 2.88 acre disposal lot that Applicant has proposed as areas suitable for drip irrigation.

92. The 5.4 acre tract is proposed to be the primary disposal field for drip irrigation while the 2.88 acre tract is offered as a secondary disposal field to be used if the 5.4 acre tract is not suitable for disposal or large enough to dispose of all effluent generated by the development.

93. Mr. Ebert explained that the soils on both proposed disposal fields contain deep, well drained or deep, moderately drained soils.

94. The proposed 64 dwellings will generate a total of 14,400 gallons per day of sewer effluent with 1 EDU equal to 225 gallons per day.

95. Based on preliminary test pits and applying a safety factor of 25%, the 5.4 acre lot has sufficient capacity to accommodate disposal of 20,529 gallons per day.

96. Mr. Ebert introduced into the record as Exhibit A-16 photographs of existing drip fields at Upland Farms and Windsor Ridge located in the Township.

97. Mr. Ebert pointed out that the Township does own and operate existing drip fields on sloped lands and lands with mature woodlands.

98. According to Mr. Ebert 30-40% of the drip tubes will be installed on lawn areas while the remainder will be installed in woodlands.

99. Mr. Ebert testified that drip tubes can be installed in wooded areas meandering through existing mature trees. Because drip tubes are installed at a shallow depth, they will not disrupt the large tree roots or jeopardize the health of the mature trees.

100. There will be no odor associated with the dosing building or drip fields because the effluent that is pumped back to the Property for disposal will be treated.

101. Once installed and operational, the drip fields are monitored by the Municipal Authority and PaDEP to ensure that contaminants do not enter the groundwater.

102. The PaDEP will require Applicant, and after dedication, the Municipal Authority, to ensure that the treated effluent meets drinking water standards before it exits the Property.

103. Applicant may be required to upgrade the pump station at Reserve at Eagle to handle the additional flows generated by the proposed development.

Applicant's Traffic Engineer Testimony- Guido DiMartino, P.E.

104. Applicant presented the testimony of Guido DiMartino, P.E., a professional civil engineer from Traffic Planning & Design, Inc., who was recognized as an expert in

traffic engineering based on the credentials in his curriculum vitae which was admitted as Exhibit A-17.

105. Mr. DiMartino prepared a Transportation Impact Study dated August 10, 2021 ("TIS") which was submitted with the Application and admitted into evidence as part of Exhibit A-1.

106. The TIS was updated to account for traffic during the school year as well as to address comments from the Township Engineer. The updated TIS was dated October 21, 2021 and admitted as Ex. A-18.

107. Mr. DiMartino also prepared a TIS Supplement dated December 10, 2021 which was admitted as Ex. A-19.

108. Mr. DiMartino examined the potential traffic impact associated with the proposed development on the surrounding roadway network in the Township.

109. He studied five intersections in the vicinity of the Property and conducted traffic counts at these intersections during morning and afternoon peak hours. He also examined the sight distance at the proposed access driveway where it intersects Greenridge Road.

110. Mr. DiMartino sought input from the Township Traffic Engineer before determining the scope of the TIS and the intersections that should be studied in the TIS.

111. Mr. DiMartino presented an aerial map, admitted as Exhibit A-20, which depicted the following five intersections that he studied as part of the TIS:

- Intersection of Greenridge Road and Font Road;
- Intersection of Greenridge Road and Krauser Road;
- Intersection of Greenridge Road and Styer Road;

- Intersection of Greenridge Road and Stonehedge Drive;
- Intersection of Krauser Road and Milford Road.

112. Mr. DiMartino analyzed the need for acceleration and deceleration auxiliary lanes along Greenridge Road at the proposed access driveway and concluded that these lanes were not necessary because of the comparatively low volume of traffic traveling on Greenridge Road and the low volume of traffic expected to be generated by the development.

113. Mr. DiMartino offered the following conclusions in his TIS:

- The proposed access driveway will exceed PennDOT's desirable and safe stopping sight distance criteria.
- The proposed development will generate 50 new vehicle trips during the weekday A.M. peak hour and 66 new vehicle trips during the weekday P.M. peak hour, using data from the Institute of Traffic Engineers.
- Under 2026 projected build conditions with the development of the Property, all study area intersections will operate at a level of service A.
- Under 2026 projected build conditions with the development of the Property, all approaches and turning movements at the access driveway intersection will operate at a level of service A during weekday AM and PM peak hours.

114. Because the access driveway does not intersect with a state road, PennDOT will not review the TIS, nor will Applicant be required to obtain any permits from PennDOT.

115. The TIS does not propose any road improvements but Applicant will be required to pay a traffic impact fee based on the number of peak PM trips pursuant to Chapter 79 of the Township Code.

116. Mr. DiMartino testified that Applicant will comply with the comments from the Township Traffic Engineer in Gilmore's review letter dated January 7, 2022, admitted as Exhibit B-14.

Applicant's Senior Vice President- Brian Thierrin

117. Mr. Thierrin, the Senior Vice President of Applicant, testified at the hearings on May 9, 2022 and May 23, 2022.

118. Mr. Thierrin introduced exterior elevations of the proposed dwellings which were admitted as Exhibit A-14. These renderings are similar to the homes that were built at Chester Springs Crossing.

119. The emergency access proposed to connect the development to Lauren Lane will be built with a plastic underlining grid system with which allow grass to grow up through it.

120. Applicant will provide disclosures to buyers concerning the impervious cover that is permitted to be built on each lot. This disclosure can be provided as part of the agreement of sale and in the homeowners declaration.

121. The homeowners declaration will require that the lot owners first obtain approval from the Association before they build any additional improvements on their lot.

122. The Association will implement a process to track the amount of impervious cover that each lot owner is permitted to build.

123. Applicant will prepare a budget for the Association which will include a reserve fund to be used for the replacement of common facilities which will be owned and maintained by the Association, including the retaining walls along Road A.

124. Mr. Thierrin introduced the lighting plan prepared by Penn Lighting Associates dated March 1, 2022 which was admitted as Exhibit A-24.

125. The lighting plan was prepared to comply with the Township lighting standards in the SALDO and, according to Mr. Thierrin, demonstrates that no light will cross Property boundaries.

126. Mr. Thierrin introduced as Exhibit A-25 photographs of other retaining walls that Applicant has built in other nearby developments. These walls will have fences built on top of the wall to prevent people from accessing the walls.

127. According to Mr. Thierrin, the useful life of the retaining walls will be 30-35 years.

128. The retaining walls built along Road A will be located outside of the right of way and maintained by the Association.

Historic Resources and Township Historical Commission Review

129. The Property does not contain any resources that are designated as historic resources pursuant to the Township's Historic Resource Inventory referenced in the Ordinance.

130. Historic resource #16, which is listed as a Class II Historic Resource on the Township's Historic Resource Inventory, is a historic spring house located on property adjacent to the east of the Property, identified as Chester County Tax Parcel No. 32-1-15 owned by the Hisseys.

131. The spring house is over 500 feet away from the Property boundary.

132. Applicant does not believe there will be any impact on this historic resource as a result of the proposed development because restricted open space is proposed

between the area of development and the common Property boundary which will act as a buffer.

133. The Historical Commission reviewed the Application and Plan, conducted a site inspection and retained Robert J. Wise Jr., an expert in historic resources to assist the Historical Commission in its determination of whether any of the historic features on the Property should be preserved and incorporated into the design of the development.

134. The Historical Commission offered recommendations in a letter dated January 12, 2022 which was updated in a letter dated January 24, 2022, which letters were admitted as Exhibits B-15 and B-16.

135. The Historical Commission and Mr. Wise made the following recommendations:

- Applicant shall revise the Plan to retain and preserve the well-like structure, abandoned lane and related stone walls on the 3.6 acre portion of the Property that is referred to as the “Irwin/Rice Parcel” which was part of the Benjamin McClure Farm and is now part of the Property.
- Applicant shall complete an archeological study of the Property and photographic documentation of the historic features on the Property;
- Applicant shall install an interpretative sign to be located near the well like structure.
- Applicant shall retain portions of stone walls on the Property and along the Property frontage along Greenridge Road.
- Applicant shall consider naming the development and its roads after historic property owners associated with the Property.
- Applicant shall design the entrance to the development as a simple farm lane.
- Applicant shall ensure that there is no adverse impact, including, but not limited to, the impact of water runoff, on the Evans Mill pond remains located across the road from the Property, which are historic resources.

136. Applicant requested a waiver to not be required to perform a historic resource impact study. The Historical Commission had no objection to the grant of this waiver.

137. Applicant is willing to preserve the sight lines to the historic spring house located on the adjacent lot so that there is a buffer between the development and the spring house.

138. Applicant is not willing to perform an archaeological study of any portion of the Property because it is not required by the Ordinance. Applicant is however willing to document all historic features on the site with photographs.

139. Applicant is willing to install an interpretive sign near the historic well structure on the Property near the proposed walking trail.

140. Applicant is not willing to retain the stone walls located throughout the Property as they are located in areas proposed for development.

141. Applicant is willing to retain the stone wall located along the edge of Greenridge Road provided it is not required to widen the road which would necessitate the removal of the stone wall.

142. Applicant is willing to name the roads in the development after historical property owners; however it is not willing to name the community with one of these historical names.

143. The access road cannot be designed as a narrow farm lane because it must be built to Township specifications and be wide enough to allow safe emergency access.

Planning Commission Witnesses

144. David Leh, the Township engineer from Gilmore & Associates, Inc., testified at the hearing on behalf of the Planning Commission.

145. Mr. Leh supports Applicant's request for a waiver from Section 162-39.E to allow the use of Belgium Block curbing as he believes that it is a suitable substitute and has been successfully installed in many developments in the Township.

146. Mr. Leh does not have a concern if the Board were to grant a waiver from Section 162-30.A to allow Road A to have a maximum grade of 11%, but recommends that the Board defer this decision until land development when more detailed grading plans are submitted.

147. He supports a design of Road A which minimizes the height of retaining walls along the edge of the road.

148. Mr. Leh confirmed that it would be impossible to have a second means of access to the development without using an access off of Greenridge Road and that any means of access off of Greenridge Road would require disturbance of precautionary and prohibitive slopes.

149. Mr. Leh confirmed that the existing driveway could not be used as a means of access to the development because it is not suitable for use by emergency vehicles.

150. Mr. Leh suggested that the stormwater management design for the development be based on the maximum impervious cover that can be built on each lot and within the open space to be owned by the Association.

151. The Planning Commission also presented the testimony of the Township traffic engineer, Christopher Williams from McMahon Associates.

152. Mr. Williams testified that he believes the development functions with having one access from Greenridge Road and an emergency access from Lauren Lane.

153. Mr. Williams defers to the Board on whether they would like sidewalks on one or both sides of the internal roads.

154. Mr. Williams supports Applicant's waiver request from Section 162-28.A to allow the road widths to be reduced to 28 feet wide. Mr. Williams believes a narrower road will aid in reducing the speed of traffic.

155. Mr. Williams also recommends that if speeding is a concern of the Board, Applicant should be required to implement additional traffic calming measures such as installation of landscape medians, speed humps or other curb bump outs.

156. Mr. Williams did approve the scope of the TIS and did not require Applicant to study the impact of the development on the intersection of Font Road and Route 100, because this intersection is in his opinion far enough away to not be impacted by the proposed traffic generated by the development. Moreover, the intersection of Font Road and Route 100 does not meet warrants for a traffic signal and is an offsite improvement that the Township does not have the legal authority to require Applicant to improve.

157. Mr. Williams testified that a driver will not discern the difference between a road grade of 10% and 11%.

158. He also would recommend that the Board defer the decision on the grade of the road until land development.

159. The Planning Commission presented the expert testimony of Sheila Fleming, the Township Land Planner from the Brandywine Conservancy. Ms. Fleming focused her review of the Plans on landscaping, open space, and recreational facilities and included her comments in Gilmore's review letter dated January 7, 2022 which was admitted as Exhibit B-14.

160. Ms. Fleming recommended that Applicant be required to plant additional buffer trees behind lots 34 through 37 and agreed that the greatest visual impact will be behind lots 33 through 42.

161. She supports the installation of a natural trail through areas of open space to provide an opportunity for passive recreation for residents of the development.

162. She prefers that the trail surface remain a natural surface but agreed that woodchips would not be appropriate for a trail located within steep slopes.

163. G. Matthew Brown, P.E., from ARRO Engineering, testified at the hearing on July 27, 2022 on behalf of the Planning Commission. Mr. Brown has worked as a professional engineer specializing in water and wastewater engineering for 46 years with 19 of those years as the Municipal Authority's Administrator.

164. Mr. Brown reviewed Applicant's proposed method of sewage disposal.

165. Mr. Brown agrees with Applicant's sewer engineer that the primary disposal area of 5.4 acres has more than sufficient capacity to handle disposal of the effluent from the development based on the initial soil tests.

166. Mr. Brown indicated that there will be no impact from the disposal field on the neighbors as a result of odors or pollutants in the groundwater.

167. He testified that he does not have any concerns about the drip tubes being installed in areas of mature woodlands or in steep slopes. He also was not concerned that the proposed drip field was located below Basin 1. The design of the disposal fields will take into account all of those factors and can be adequately maintained in accordance with Municipal Authority and PaDEP regulations.

168. Mr. Brown indicated that the Municipal Authority would be required to inspect the drip fields and drip tubes buried approximately 6-10 inches below the surface of the ground on a weekly basis and will be required to install monitoring wells to make sure that water leaving the disposal fields does not contain pollutants or contaminants.

169. The proposed drip fields will be conveyed to the Municipal Authority or Township and will be fenced in with appropriate signage to advise residents of the restrictions on the use of the land.

170. The Planning Commission reviewed the Application at several public meetings and listened to the concerns of the nearby residents. At its meeting on January 13, 2022, the Planning Commission voted to recommend that the Board approve the Application subject to the conditions outlined in Mr. Crotty's letter dated January 18, 2022 marked PC-1.

171. Applicant agreed to abide by the recommendations made by the Planning Commission which are summarized in Exhibit PC-1.

Protestants Testimony and Comments

172. Jonathan Long, Esquire represented F. Owen Fields who resides at 129 Greenridge Road and Gerald Stein and Lesley Dawson who reside at 125 Greenridge Road.

173. Mr. Fields testified on May 23, 2022 and introduced photographs of his property and the Stein/Dawson property and the flooding that occurs in and around the Property and their properties in heavy rain events. These photographs (marked Exhibits L-1 through L-21) were taken on the dates indicated in Mr. Long's email dated May 31, 2022 marked as Exhibit L-22.

174. Mr. Fields testified that during heavy rain, stormwater runs off of the Property across Greenridge Road and enters his property and the Stein/Dawson property.

175. Mr. Fields summarized the major concerns that he and Mr. Stein/Ms. Dawson have concerning the development as follows: (i) storm water from the improvements to be constructed on Lots 1-4 cannot be controlled and instead will cause additional run off onto their properties on the south side of Greenridge Road; (ii) the Property cannot be developed using effective stormwater management controls given the steep slopes; (iii) flood control measures that are currently in place and that will be implemented by Applicant will not handle large rain events and their properties will be further damaged by flooding; (iv) sediment from erosion and flooding accumulates on his property and in the stream on his property and will likely continue to be a problem with the proposed disturbance of the steep slopes on the Property; (v) the culvert underneath Greenridge Road does not have sufficient capacity to handle additional water running through it; (vi) flooding from the Property and on the properties to the south of Greenridge

Road will likely increase due to added impervious surfaces being built on the Property; (vii) contamination and pollutants from the development of the Property will likely enter the Black Horse Creek.

176. Dr. Schaeffer's counsel, Mark Freed, Esquire, explained that Dr. Schaeffer's largest concern about the proposed development are the use of Lauren Lane as an access. She proposes that Lauren Lane be restricted to emergency access only and that Applicant be required to install a locked gate to prevent use of the emergency access except by emergency responders.

177. At the hearing on August 9, 2022, many parties presented statements to the Board wherein they expressed their concerns about the proposed development. The parties expressed similar concerns and objections to the proposed development including concern over loss of the privacy, disruption of environmentally sensitive lands, and flooding.

178. Robin Kerwin who resides at 112 Devon Circle expressed her opinion that the Plan is not consistent with the Comprehensive Plan and that access through Lauren Lane would be detrimental to the safety of the residents in Stonehedge.

179. The Board also heard similar concerns from Paul Rau who resides at 69 West Indian Springs Drive, Carolyn Falini, owner of 63 Stonehedge, Eric Scherer, 26 Indian Springs Drive, and Miroslav Maraz, 8 Lauren Lane.

180. Mr. Quake, who resides at 16 Lauren Lane with his wife, expressed many concerns about the development including the loss of privacy for the Stonehedge community. He urged the Board to deny the conditional uses requested or if the

Application is approved to impose several conditions that he outlined in his statement to the Board.

181. Mr. Robinson who resides at 198 Greenridge Road with his wife, also expressed several concerns about the proposed development but focused on the disruption of the steep slopes behind his property.

182. Elizabeth Woodward, who lives at 38 East Indian Springs Drive, also made a statement at the August 9, 2022 hearing and expressed her opinion that the Plan is not consistent with the purposes for the flexible/open space development in Section 200-72.A or the Comprehensive Plan, is not compatible with adjacent land uses, and will have a negative impact on the adjacent properties.

183. Stephen Egnaczyk, who resides at 64 Stonehedge Drive, made a statement at the August 9, 2022 hearing and expressed his opinion that the residents in Stonehedge would be negatively impacted if the access road connected to Lauren Lane. He urged the Board to require Applicant to provide more active recreational land and advance notice if utility service will be disrupted during construction.

184. Alexander Rose, who resides at 180 Shea Lane, made a statement and expressed concern over the use of the 2.8 acre secondary disposal field which abuts her lot. She prefers if this area be maintained in its natural state and restricted to open space use.

Exhibits

185. The Board entered the following exhibits, without objection by Applicant or the parties:

B-1: Conditional Use Application dated August 10, 2021 as amended in letter dated October 4, 2021 from Alyson Zarro, Esquire

- B-2: Conditional Use Subdivision Plan prepared by ESE Consultants, Inc. dated August 10, 2021 last revised October 4, 2021, consisting of 13 sheets
- B-3: Proof of Publication in *Daily Local News* on November 1, 2021 and November 8, 2021
- B-4: Certificate of Posting on October 26, 2021
- B-5: List of properties located within 500 feet of 100 Greenridge Road and notice sent to such properties
- B-6: Letters dated August 20, 2021 and September 28, 2021 from Alyson M. Zarro, Esquire agreeing to waive time limit under Pa.MPC to hold hearing
- B-7: Letter dated November 4, 2021 from Gilmore & Associates, Inc.
- B-8: Memorandum from Aaron Stoyack dated October 25, 2021 with Historical Commission recommendations
- B-9: Undated Letter from Russ Trego, Fire Chief for Ludwigs Corner Fire Company
- B-10: Letter dated December 2, 2021 from John J. Mahoney, Esquire requesting continuance
- B-11: Proof of Publication in *Daily Local News* on January 4, 2022 and January 11, 2022
- B-12: Certificate of Posting on January 3, 2022
- B-13: Email from Kristin S. Camp to parties about continued hearing date
- B-14: Letter dated January 7, 2022 from Gilmore & Associates, Inc.
- B-15: Historical Commission's Recommendation dated January 12, 2022 and Letter (Historic Resource Report) dated January 11, 2022 from Robert J. Wise, Jr. of Richard Grubb & Associates
- B-16: Historical Commission Updated Background and Draft Motions dated January 24, 2022
- B-17: Email from Carolyn Falini dated May 22, 2022 and pictures re: concerns regarding Lauren Lane traffic

B-18: Email from Amanda and Miroslav Maraz, 8 Lauren Lane dated June 21, 2022 with public comments

B-19: Letters/Emails received from concerned residents

186. Applicant entered the following exhibits without objection by the Township

or any of the parties:

- A-1 Conditional Use Application dated August 10, 2021 and Cover Letter dated August 11, 2021; with Conditional Use Subdivision Plan, consisting of seven (7) sheets, prepared by ESE Consultants, Inc. dated August 10, 2021 (*not in packet*); Fiscal & Recreation Impact Analysis prepared by David C. Babbitt & Associates, LLC dated August 9, 2021 (*not in packet*); Transportation Impact Study prepared by Traffic Planning and Design, Inc. dated August 10, 2021 (*not in packet*)
- A-2 Revised Conditional Use Application cover letter dated October 4, 2021; with Revised Conditional Use Subdivision Plan dated August 10, 2021 and last revised October 4, 2021, consisting of 13 sheets (*plans not in packet*); Fiscal & Recreation Impact Analysis prepared by David C. Babbitt & Associates, LLC dated October 3, 2021 (*not in packet*); Response Letter from ESE Consultants, Inc. dated October 4, 2021 to the Gilmore & Associates, Inc. Review Letter dated September 7, 2021
- A-3 Letter to Township Manager dated October 22, 2021
- A-4 Conditional Use Resubmission Letter dated December 17, 2021 with Response Letter from ESE Consultants, Inc. dated December 17, 2021 to the Gilmore & Associates, Inc. Review Letter dated November 4, 2021 and Fiscal & Recreation Impact Analysis revised December 16, 2021 prepared by David C. Babbitt & Associates, LLC
- A-5 Upper Uwchlan Township Zoning Ordinance of 1989, as amended (*incorporated by reference*)
- A-6 Redacted Agreement of Sale between Toll Mid-Atlantic LP Company, Inc. and Richard T. Williams and Bonnie C. Williams executed May 13, 2021
- A-7 C.V. of Justin Barnett, RLA
- A-8 Conditional Use Subdivision Plan for Greenridge Road prepared by ESE Consultants, Inc. dated August 10, 2021 and last revised December 15, 2021
 - Sheet 1 - Cover Sheet
 - Sheet 2 - Site Analysis & Impact Plan (Existing Conditions)

- Sheet 3 - Site Analysis & Impact Plan (Impact Analysis)
- Sheet 4 - Proposed Layout Plan
- Sheet 5 - Open Space Management Plan
- Sheet 6 - Restricted Open Space Plan
- Sheet 7 - Usable Open Space Plan
- Sheet 8 - Road Plan
- Sheet 9 - Road Profile
- Sheet 10 - Fire Truck Circulation Plan
- Sheet 11 - Delivery Truck Circulation Plan
- Sheet 12 - Site Entrance Vehicle Circulation Plan
- Sheet 13 - Sight Distance Check Plan

A-9 Rendered Conditional Use Proposed Layout Plan prepared by ESE Consultants, Inc. dated August 10, 2021 and last revised December 15, 2021

A-10 Road Widening Exhibit prepared by ESE Consultants, Inc. dated January 17, 2022

A-11 C.V. of John Baionno, P.E.

A-12 Steep Slope Conservation District Narrative prepared by ESE Consultants, Inc. dated December 15, 2021

A-13 Will Serve Letter from Aqua Pennsylvania, Inc. dated May 19, 2021

A-14 Sample Exterior Elevations

- Arlen
- Elverson
- Lyndell
- Rowling

A-15 C.V. of Fred Ebert, P.E.

A-16 Photographs of Drip Irrigation Fields in Upper Uwchlan Township

- (a) Upland Farms
- (b) Upland Farms
- (c) Upland Farms
- (d) Windsor Ridge
- (e) Windsor Ridge

A-17 C.V. of Guy DiMartino, P.E.

A-18 Revised Traffic Impact Study prepared by Traffic Planning and Design, Inc. dated October 21, 2021 (*Appendices not in packet*)

A-19 TIS Supplement prepared by Traffic Planning and Design, Inc. dated December 10, 2021

A-20 Study Area Intersections Aerial prepared by Traffic Planning and Design, Inc.

A-21 Letter from Jim Holliday, P.L.S., of ESE Consultants, Inc. dated March 3, 2022

A-22 Preliminary Jurisdictional Determination from the U.S. Army Corps of Engineers dated March 3, 2022

A-23 Exploration Location Map prepared by Geo-Technology Associates, Inc. dated June 2021

A-24 Lighting Plan prepared by Penn Lighting Associates dated March 1, 2022

A-25 Photographs

- (a) West Chester Crossing, East Bradford Township, Typical Retaining Wall
- (b) Darlington Ridge at West Chester, East Bradford Township, Typical Retaining Wall
- (c) Darlington Ridge at West Chester, East Bradford Township, Typical Retaining Wall
- (d) Byers Station, Upper Uwchlan Township, GrassPave2 Installation
- (e) Delancy Court, Newtown, Bucks County, GrassPave2 Installation
- (f) Oakmont, Yardley, Bucks County, GrassPave2 Installation

A-26 Precautionary Slopes on Lot prepared by ESE Consultants, Inc. dated May 18, 2022

A-27 Road Plan, Road 'A' Sta. 1+100 to Sta. 27+100 prepared by ESE Consultants, Inc. dated August 10, 2021 and last revised December 15, 2021

A-28 Road Profile, Road 'A' Sta. 1+100 to Sta. 27+100, prepared by ESE Consultants, Inc. dated August 10, 2021 and last revised July 5, 2022

187. The Planning Commission introduced one exhibit marked Exhibit PC-1 which was a letter dated January 18, 2022 from Michael J. Crotty, Esquire addressed to the Board.

188. The following exhibits were admitted on behalf of Mr. Fields and Mr. Stein/Ms. Dawson:

- L-1 Picture of shared driveway with Fields property (129 Greenridge) on right up hill and Stein property on left
- L-2 Picture showing restored section of historical mill pond wall. Picture is facing south downstream with Greenridge Road to the right
- L-3 Close up picture of wall described in L-2
- L-4 Photo taken standing on top of the berm which defines the edge of the mill pond, or down below.
- L-5 Photo of seepage
- L-6 Photo of seepage
- L-7 Photos addressing springs on the property
- L-8 Satellite photos showing watershed in the area and creeks
- L-9 Picture of tributary where it crosses Greenridge Road in culverts
- L-10 Picture of tributary where it crosses Greenridge Road in culverts (different angle from L-9)
- L-11 View from standing at the culvert turned around looking back towards Stein property
- L-12 Picture of end of driveway looking across Greenridge at the current driveway on 100 Greenridge
- L-13 Picture showing the slopes of the proposed development and two different water flows off the property
- L-14 Photo of end of Fields and Stein driveway showing the slopes
- L-15 Picture showing that the basin would be behind the pine tree in the very middle
- L-16 Photo of Black Horse Creek looking back towards driveway
- L-17 Left photo shows overflow from culvert on the Greenridge property; photo on the right shows upstream flow – the junction of Font and Greenridge Road
- L-18 Photo on left is standing on Greenridge Road looking onto Stein property; picture on the right is looking up the driveway
- L-19 Picture of stormwater runoff crossing the road on the left-hand side

- L-20 Picture of flooding on Stein property
- L-21 Photos of flood control basin at an adjacent development
- L-22 Email from Jonathan Long dated May 31, 2022

CONCLUSIONS OF LAW

1. Applicant as equitable owner of the Property has standing to file the Application.
2. The conditional use hearing was duly advertised in accordance with the provisions of the Pennsylvania Municipalities Planning Code (“MPC”) and the Ordinance and the Property was posted in accordance with the requirements of the MPC.
3. The Property is located in the R-2 Residential District and F-1 Flexible Development Overlay District.
4. Section 200–72.B(2)(a) of the Ordinance allows the subdivision and development of property in the R-2 Residential District and F-1 Flexible Development Overlay District using the flexible/open space development option by conditional use of the Board of Supervisors subject to compliance with the provisions in Section 200–72 and 200-116.
5. Section 200–72.C(2)(b)[1] allows single-family detached dwellings in a flexible/open space development that is built on property in the F-1 Flexible Development Overlay District.
6. In granting conditional use approval to development plans utilizing the flexible/open space development option, the Board of Supervisors may waive applicability of any provisions of the SALDO codified in Chapter 162 of the Township Code. Section 200-72.B(2)(d).

7. The Plan complies with the applicable area and bulk regulations for the flexible open space development in Section 200-72.D.

8. The Plan complies with the minimum restricted open space required by Section 200-72.D(1) which requires 40% of the gross acreage of the tract to be restricted open space.

9. 64 lots complies with the maximum density permitted in Section 200-72.D(2).

10. The Plan complies with the residential lot and yard area regulations in Section 200-72.D(4)(c).

11. The criteria for common and restricted open space in Section 200-69 apply to the open space in the development pursuant to Section 200-72.E(4).

12. Section 200-107.C of the Ordinance identifies the Steep Slope Conservation District as areas of prohibitive slopes (25% or greater) and precautionary slopes (15% to 25%).

13. Section 200-107.D(2) allows by right in areas of prohibitive slopes: (i) parks and outdoor passive recreational uses; (ii) grading for the minimum portion of a driveway accessing a single family dwelling; and (iii) yard areas of a building.

14. Among other improvements, Section 200-107.D(3) permits by right in areas of precautionary slopes: (i) parks and outdoor passive recreational uses; and (ii) yard areas of a building.

15. Section 200-107.D(3)(b)[1]-[4] allows the following in areas of precautionary slopes when approved by conditional use of the Board: (i) any structure permitted by right, special exception or conditional use in the underlying base zoning

district; (ii) roads necessary to provide primary access to a use permitted in the zoning ordinance; (iii) sealed public water supply wells where approved by all regulatory agencies; and (iv) sanitary or storm sewers where approved by all regulatory agencies.

16. For the lots that contain areas of precautionary steep slopes, the total amount of impervious surface that may be installed in the area of steep slopes is limited to 10% of the lot area pursuant to Section 200-72.D(3)(c).

17. Section 200-107.D does not permit the disturbance of prohibitive slopes to build the proposed access road from Greenridge Road and thus Applicant will require a variance.

18. Applicant has proven the relevant criteria in Section 200-72 for the flexible open space development option.

19. Applicant has proven the relevant criteria in Section 200-107 to allow the disturbance of the precautionary steep slopes as proposed in the Application.

20. Subject to Applicant's compliance with the conditions imposed herein by the Board, Applicant has proven compliance with the objective requirements for conditional use in Section 200-117 of the Ordinance.

DISCUSSION

A conditional use is a use permitted in a particular zoning district pursuant to the provisions in Article VI of the MPC, 53 P.S. §10603. A conditional use concerns only a proposed use of land, not particular design details of the proposed development.

Joseph v. North Whitehall Township Board of Supervisors, 16 A.3d 1209 (Pa.Cmwlth. 2011). A conditional use is a special exception which falls within the jurisdiction of the municipal legislative body rather than the zoning hearing board. 53 P.S. §10603(c). *Id.*

A conditional use is not an exception to the zoning ordinance, but rather a use to which the applicant is entitled provided the specific standards enumerated in the ordinance for conditional use are met by the applicant. *In Re Appeal of AMA/American Marketing Association*, 142 A.3d 923 (Pa.Cmwlth. 2015). The fact that a use is permitted as a conditional use, rather than prohibited, reflects a legislative decision that the use is not *per se* adverse to the public interest. *Appeal of Richboro CD Partners LP*, 89 A.3d 742 (Pa Cmwlth. 2014).

An applicant seeking a conditional use initially bears the burden of establishing that the application complies with the objective standards and criteria in the zoning ordinance. *Id.* Once the applicant has satisfied this initial burden, there is a legislative presumption that the use is consistent with the health, safety and welfare of the community. *Id.* The burden then shifts to the objectors to rebut this presumption by establishing that the use will have a detrimental impact on the surrounding community. The objectors must prove with a high degree of probability that allowing the conditional use will create a substantial risk of harm to the community and will impose detrimental impacts exceeding those ordinarily to be expected from the use at issue. *Id.* The degree of harm required to justify denial of a conditional use must be greater than that which normally flows from the proposed use. *In Re Cutler Group, Inc.*, 880 A.2d 39 (Pa. Cmwlth. 2005).

Parties who oppose a conditional use application may not rely on lay opinion, speculative threats, generalized concerns or bald assertions to meet their burden. *Appeal of Brickstone Realty*, 789 A.2d 333 (Pa. Cmwlth. 2001); *EQT Prod. Co. v. Borough of Jefferson Hills*, 208 A.3d 1010 (Pa. 2018).

In granting a conditional use, the Board has the authority to impose reasonable conditions and safeguards if such conditions are necessary to implement the purposes of the Ordinance and to protect the health, safety and welfare of the surrounding property owners. 53 P.S. §10603(c)(2). Conditions imposed by the Board are designed to protect the public interest of surrounding property owners. *Ford v. Zoning Hearing Bd. Of Caernarvon Twp.*, 616 A.2d 1089 (Pa. Cmwlth. 1992).

Prior to filing the Application, Applicant filed a sketch plan of a subdivision of the Property using the flexible/open space development option in Section 200-72 of the Ordinance which proposed the primary access to the development extending from Lauren Lane in the Stonehedge subdivision. This sketch plan was presented to the Planning Commission and Board in public meetings. Residents from the Stonehedge development, many of whom are parties to this Application, raised objections to the proposed development due to concerns over the safety of the Stonehedge residents. As a result of the strong opposition voiced by many Stonehedge residents, as well as a recommendation from the Planning Commission, Applicant revised the design of the proposed subdivision and presented the Plan that was filed with the Application. The Plan now proposes the primary means of access from Greenridge Road and limits use of Lauren Lane as an emergency access only. Given the configuration of the Property, the only other viable access to the Property is from Greenridge Road which necessitates disturbance to precautionary and prohibitive slopes. Applicant's engineer and the Township engineer both agree that any access from Greenridge Road would cause disruption to precautionary and prohibitive steep slopes and requires Applicant to seek conditional uses under Section 200-107. The Board listened attentively to the concerns

expressed by many residents in Stonehedge and prefers that the development be accessed from Greenridge Road. The Board recognizes that if the access to the development was from Lauren Lane, as originally presented in the sketch plan, the traffic from the development would ultimately lead to Greenridge Road. Thus, the traffic impact of the development on residents who live and travel Greenridge Road is similar with both development scenarios.

The Board recognizes that the Ordinance allows disturbance to precautionary steep slopes and prohibitive slopes for certain improvements enumerated in Section 200-107. Applicant has proven compliance with the conditional use criteria to disturb the precautionary slopes for the improvements proposed on the Plan and described in the Steep Slope Narrative that was admitted as Exhibit A-12. The Board does not have the legal authority to grant Applicant a variance from Section 200-107.D(2) to allow Road A to be built in areas of prohibitive slopes and thus Applicant will be required to seek a variance for such use. Applicant will have to demonstrate to the Zoning Hearing Board that a variance to allow the disturbance of prohibitive slopes is necessary and will not alter the essential character of the neighborhood, nor substantially or permanently impair the appropriate use or development of adjacent property or be detrimental to public welfare.

In addition to compliance with the criteria in Section 200-107 of the Ordinance, the Board will also impose conditions to minimize the amount of disturbance of the slopes and control the impact of such disturbance.

As for the conditional use request to develop the Property using the flexible/open space development option, the Board relies heavily on the reviews and analysis of the

Township consultants who analyzed the Application and the Plan to determine if it complies with the standards in Section 200-72 of the Ordinance. The Township consultants, staff, Historic Commission and Planning Commission spent a considerable amount of time reviewing the Plan and all supporting information, studies and plans Applicant submitted with the Application. The Township consultants and Planning Commission recommended that the Board approve the Application subject to Applicant's compliance with suggested conditions in Gilmore's letter dated January 7, 2022, and the Planning Commission's recommendation letter that was marked Exhibit PC-1. The Historic Commission also did not pose any opposition to the Board approving the Application subject to Applicant complying with their recommendations which are set forth in Exhibits B-15 and B-16. The Board has carefully considered the comments and recommendations from the Township consultants, Township staff, Planning Commission and Historic Commission and has imposed many of their suggestions as conditions of approval.

Based on Applicant's expert testimony and expert testimony from the Township's consultants, the Board finds that the Plan meets the specific criteria for a flexible/open space development in Section 200-72 and thus must approve the conditional use.

The individuals who were granted party status presented concerns that the Board will address through the imposition of conditions that in some instances will require the Plan to be modified or further refined during land development. No party, other than the Planning Commission, presented expert testimony from a qualified professional such as a land planner, civil engineer, soil scientist or traffic expert. The Board recognizes this fact not as a criticism but to point out that under established case law an objector to a

conditional use cannot meet his or her burden of proof by presenting lay opinions or speculative fears of the impact of the proposed use. Instead, protestants to a conditional use application must present substantial credible evidence to demonstrate that the Application would have negative adverse impacts on the public health, safety or welfare that supports the denial of the conditional uses requested. *Appeal of Brickstone Realty*, 789 A.2d 333 (Pa. Cmwlth. 2001).

Many of the parties expressed opinions in their testimony and public statements that the Plan does not meet the purposes for a flexible/open space development stated in Section 200-107.A of the Ordinance. However, general purpose statements that do not establish objective criteria cannot serve as a basis to deny a conditional use. The Pennsylvania courts have been clear that if a municipality requires an applicant to prove a general, non-specific or non-objective requirement as part of a conditional use application, such general provisions are not part of the threshold persuasion burden and presentation duty of the applicant. The applicant must meet reasonably definite conditions; however, it is manifestly unfair to require an applicant to prove conformity with a policy statement, the precise meaning of which is supposed to be reflected in specific requirements. *Williams Holding Group, LLC v. Board of Supervisors of West Hanover Township*, 101 A.3d 1202 (Pa.Cmwlth. 2014). If the conditional use criteria are too vague, the Courts have refused to give them effect and have held that such vague requirements are not enforceable and may not serve as a basis to deny a conditional use. *Id.*

One of the chief concerns raised by the parties concerned the disruption of steep slopes and potential impact of this disruption such as erosion, uncontrolled stormwater

runoff and flooding of downstream properties. Applicant will be required to demonstrate that the disturbance of steep slopes is limited to what is shown on the Plan and can be conducted in a manner which prevents erosion and negative impacts on adjacent parcels. Applicant's civil engineer testified that based on the preliminary soil testing that Applicant's expert completed, he believes that Applicant will be able to design stormwater management facilities that meet the Township's stormwater ordinance requirements and PaDEP standards. If Applicant cannot, then the Board will have a basis to deny the land development plans.

Protestants argued that the proposed development is not compatible with the surrounding residential developments. The surrounding existing developments were built using the underlying base zoning for the R-2 District and thus have larger lots and increased setbacks. The Property is located in the R-2 and F-1 Overlay and thus Applicant is entitled to subdivide using the more flexible area and bulk requirements in Section 200-72. Applicant has demonstrated compliance with the specific criteria for density, lot sizes, area and bulk regulations, open space and other criteria for the flexible/open space development. The Plan preserves 40% of the land as open space and according to Applicant's civil engineer minimizes the disruption to sensitive landscapes such as woodlands and steep slopes.

The parties also expressed concern about the loss of privacy in their rear yards. The Board will require Applicant to maintain the 50 Foot Buffer and supplement this buffer with a variety of landscaping that will act as an effective screen all year. The Association will own the land in the 50 Foot Buffer and will be required to continuously maintain the same to ensure that it protects the privacy of Stonehedge residents.

The Board will defer its decision on whether Road A may exceed a grade of 10% until land development but will impose conditions to require Applicant to revise the Plan to narrow the width of the road and install a landscape median at the steepest part of the road to slow traffic travelling down the hill. The Board will require that the ultimate design of Road A minimizes the height of the retaining wall. The Board will not agree to accept dedication of the roads and instead will impose maintenance obligations of all roads in the development as well as the retaining walls on the Association. The Board will require Applicant as Declarant to memorialize all of the restrictions and conditions imposed in this Order in a recorded Declaration that the Township must approve and will have the right to enforce.

The Board recognizes that this Decision only grants conditional use approval for the flexible/open space development and to disturb areas of precautionary steep slopes for specified improvements as depicted on the Plan. The Board recognizes that this Application is step one of a long development process and that the law does not allow it to require Applicant to demonstrate adherence to every standard in the SALDO or to prove that it can meet all Code requirements at this stage. An applicant is not required to present particular details of the design of the proposed development at the conditional use stage. *Appeal of Richboro CD Partners LP*, 89 A3d. 742 (Pa Cmwlth. 2014).

Wherefore, the Board will vote to approve the conditional uses requested subject to Applicant's compliance with the conditions imposed in this Decision and Order.

ORDER

AND NOW, this 11th day of October, 2022, the Board hereby approves the Application and grants the following conditional uses:

1. A conditional use pursuant to Section 200-72.B(2)(a) of the Ordinance to develop the Property with a maximum of 64 single family dwellings using the flexible/open space development option consistent with the Plan which was admitted as Exhibit A-8 as such plan is revised to comply with this Order and to obtain land development approval.
2. A conditional use pursuant to Section 200-107.D(3)(b)[1] to allow portions of dwellings in areas of precautionary steep slopes as generally depicted on Exhibit A-8.
3. A conditional use pursuant to Section 200-107.D(3)(b)[2] to allow a portion of Road A which is necessary to provide primary access to the development in areas of precautionary steep slopes as generally depicted on Exhibit A-8.
4. A conditional use pursuant to Section 200-107.D(3)(b)[4] to allow sanitary and storm sewers in areas of precautionary steep slopes as generally depicted on Exhibit A-8 if approved by all regulatory agencies.

CONDITIONS OF APPROVAL

1. The development shall be built and designed generally in accordance with the Conditional Use Plan which was admitted as Exhibit A-8 as such Plan is revised to comply with this Order and to obtain land development approval from the Board of Supervisors.
2. A maximum of 64 dwelling units shall be permitted in the development.
3. The maximum area of precautionary and prohibitive slopes on the Property that Applicant shall be allowed to disturb shall be limited to the areas set forth in the Steep

Slope Conservation District Narrative dated December 15, 2021 which was admitted as Exhibit A-12 and is summarized in finding of fact #53. This condition shall not be construed as granting Applicant a variance from Section 200-107.D(2) to disturb areas of prohibitive steep slopes in order to construct portions of Road A. If Applicant does not obtain approval from the Township's Zoning Hearing Board for such variance, the Plan must be revised.

4. Applicant shall address to the satisfaction of the Board all outstanding comments in the Township engineer's review letter dated January 7, 2022 which was admitted as Exhibit B-14, unless recommendations in that letter are modified by the Board through the imposition of conditions in this Decision and Order.

5. Access to the development shall be from Road A intersecting with Greenridge Road as generally depicted on Exhibit A-8. The Board approves waivers from Section 162-33.A to allow a single access road and from Section 162-33.D to allow Road A to exceed 500 feet in length.

6. Applicant shall install an emergency access to Lauren Lane using reinforced turf and pavers with the exact specifications approved by the Township engineer, Fire Chief and Board during land development. Applicant shall install a locked gate at the entrance to the emergency access in the development which will prohibit residents from the development accessing Lauren Lane. The specifications for the gate shall be approved by the Township engineer, Fire Chief and Board. The Association shall maintain the gate as a common facility. Applicant shall install a post and rail fence along the northern and southern boundaries of the emergency access to delineate the emergency

access separate from the side yards of lots 43 and 58. The specifications for the fence shall be approved by the Board as part of land development.

7. The roads in the development shall remain private roads and shall be conveyed to the Association and perpetually maintained by the Association. The Association shall also be responsible for maintaining the emergency access which shall include removing snow and ice.

8. Applicant shall prohibit all contractors involved in building any aspect of the development from using the emergency access as a means of access for construction vehicles.

9. The Plan shall provide the 50 Foot Buffer generally extending from the rear lot line of lots 26-28, 29-42, 58-64 and the 1.68 acre open space lot as depicted on the Plan to the western Property boundary. Applicant shall install bollards or some other property boundary marker (other than a fence) at the rear lot lines of all lots that abut the 50 Foot Buffer so that there is a visible boundary between the rear lot lines and the 50 Foot Buffer. Other than the existing fence which may remain and the bollards (or other approved property boundary marker), there shall be no improvements or grading within the 50 Foot Buffer, including trails. All existing vegetation, except for dead, diseased or dying trees shall be maintained and preserved in the 50 Foot Buffer. Applicant shall plant additional plantings in the 50 Foot Buffer including evergreen trees to provide an effective screen all year round. The exact specifications for the landscaping that Applicant must install in the 50 Foot Buffer shall be determined by the Board with input from the land planner, Township engineer, and Planning Commission during land development provided however that only deer resistant plantings shall be used. The 50 Foot Buffer

shall be conveyed to the Association and maintained as a common facility of the Association. The Association shall annually inspect the landscaping in the 50 Foot Buffer and replace dead, diseased or dying trees.

10. Applicant shall prepare a sequence of construction which shall require the additional landscaping as required by the approved landscaping plan in the 50 Foot Buffer to be installed prior to disturbance or earth work for all lots that abut the rear of the lots in Stonehedge.

11. Applicant shall remove all dead or dying Ash trees on Property.

12. During land development Applicant shall identify all specimen trees on the Property, as defined in the SALDO, and preserve all specimen trees located in open space and in the 50 Foot Buffer, unless such trees are dead, diseased or dying. Applicant shall make all possible efforts to preserve specimen trees located elsewhere on the Property and shall only remove specimen trees located in areas of the Property where improvements or infrastructure is proposed, unless such trees are dead, diseased or dying.

13. Applicant shall comply with the tree mitigation and replacement requirements in the SALDO. The exact replacement number and species of trees that Applicant must install shall be determined as part of the land development process when Applicant submits detailed landscaping plans.

14. Applicant shall revise the Plan so that the width of the cartway for all proposed roads is 28 feet, as opposed to 32 feet wide as depicted on the Plan. Applicant shall install a median island on Road A in areas where the slope of the road warrants such traffic calming device to slow traffic driving downhill. The specifications for the

median island and location of same shall be determined by the Board as part of land development. The Board grants a waiver from Section 162-28.A to allow a cartway width of 28 feet.

15. Applicant shall not be required to widen the existing cartway of Greenridge Road provided that it shall offer for perpetual dedication to the Township additional right of way in a width approved by the Township engineer during land development. The Board grants a waiver from Section 162-28.A to not require Greenridge Road to be widened.

16. Applicant shall revise the Plan to provide sidewalks on both sides of all proposed roads, as opposed to one side of the roads as depicted on the Plan.

17. If during construction any utility service (such as water, cable, internet, etc.) to existing residents will be disrupted, Applicant shall send written notice at least 72 hours in advance to affected residents.

18. Applicant shall prepare, execute and record with the final subdivision and land development plans a declaration of covenants, restrictions and easements for the community in accordance with the Pennsylvania Uniform Planned Community Act. The Declaration shall include all restrictions required by this Decision, the zoning decision, and any terms in the Board's land development approval if granted. The Declaration must be approved by the Board as part of land development and recorded with the final plans.

19. Applicant shall include in the agreement of sale and deed for any lot that has precautionary or prohibitive steep slopes and in the Association Declaration a disclosure that advises the buyer of the presence of precautionary and/or prohibitive steep slopes on the lot and explains that the Ordinance and this Decision restricts what

can be built in such areas. The disclosure shall include the lot number, lot area, area of precautionary and prohibitive steep slopes on the lot, area of maximum allowable impervious cover on the lot, area of impervious cover built by Applicant, and area of impervious cover that the buyer has left to build. The Township must approve the language to be included in the agreement of sale and deed for any lot that has precautionary or prohibitive steep slopes and in the Association Declaration.

20. Applicant shall prepare and provide to each lot owner with the agreement of sale a plot plan of the respective lot which shows the areas of precautionary and prohibitive steep slopes on the lot, if any, and the total area of these slopes that Applicant intends to disturb in the construction of the dwelling and other impervious surfaces. The lot owners shall be required to sign a disclosure that identifies the total amount of impervious cover that will be constructed on each lot by Applicant and the balance of impervious cover that the lot owner may build.

21. The Declaration shall require that lot owners must obtain approval from the Association before constructing any additional improvements on their lot after conveyance by Applicant. The Association shall confirm that any proposed improvement to be built by a lot owner does not exceed the maximum impervious cover allocated for that lot. The Association's written approval must be included in the building permit application submitted to the Township.

22. The Plan shall be revised to eliminate the proposed nature trail located in the 8.63 acre tract of open space to the south of Road A and the proposed trail along Greenridge Road. The area of these proposed trails shall be deducted from Applicant's

calculation of land that it proposes for active recreation. The Plan shall be revised to provide the required 3.0 acres of active usable recreational area.

23. The Plan shall include the proposed community trail leading from Road C through steep slopes to connect to Road A in between lots 2 and 3. This trail shall be paved and maintained as a common facility by the Association. The design and specifications for this trail shall be determined by the Board as part of land development.

24. The Association Declaration shall identify all areas of existing wetlands on the Property and include restrictions that these wetland areas may not be disturbed or developed in any manner. The Township shall have the right to enforce this restriction in the Declaration.

25. Applicant shall comply with the recommendations from the Ludwigs Corner Fire Department as outlined on Exhibit B-9.

26. During land development Applicant shall determine if blasting of stone or rock on the Property is necessary. If blasting is required, Applicant shall add notes to the Plan which outline the precautionary steps that it shall take to protect structures on adjoining lands during blasting. Applicant shall provide 7 days advance written notice to any property owners within 200 feet of the proposed blasting and provide details about what blasting activity will occur.

27. Declarant shall prepare an estimated budget for the Association which shall include adequate reserves for maintenance of all common facilities including retaining walls. The minimum amount of money which shall be held in the Association's capital reserve account shall be no less than the initial construction cost of the retaining walls plus a 0.5% annual inflationary increase. The Association shall confirm in writing every

year to the Township that the amount of money in the Association's reserve account is sufficient to maintain and replace the retaining walls. The Township may require that the Association impose a special assessment to increase the amount in reserve if the Township engineer determines that the amount held in reserve is not sufficient to replace retaining walls. The Association may assume that the useful life of the retaining walls is 30 years.

28. The Association shall retain a structural engineer licensed in the Commonwealth of Pennsylvania to inspect the retaining walls along Road A every two years and prepare a written inspection report. The Association shall send the written report to the Township. If the report identifies that maintenance or repairs are needed to the walls, the Association shall complete such repairs within a time frame approved by the Township and send a written report to the Township confirming that the repairs were made.

29. Applicant shall retain a structural engineer to design the retaining walls in the development and shall submit such design to the Township for approval as part of land development. Road A shall be designed in a manner to minimize the height of the retaining walls. The Township Engineer and Planning Commission shall provide comment on the design, materials, colors, fencing and landscaping around the retaining walls, but ultimate approval shall be given by the Board as part of land development. The retaining walls shall be perpetually maintained by the Association.

30. Applicant shall preserve the sight lines to the historic spring house located on Parcel 32-1-15 so that a buffer is provided between the development and the spring house.

31. Applicant shall document by photographs all historic features on the Property as suggested by the Historical Commission.

32. Applicant shall install an interpretive sign near the historic well structure on the Property in the open space and preserve this historic well.

33. Applicant shall retain the stone wall located along the edge of Greenridge Road and the Association shall maintain this stone wall as a common facility.

34. Applicant shall name the roads in the development after historical owners of the Property.

35. The development shall be serviced by public water.

36. The development shall be serviced by public sewer provided by the Township Municipal Authority. The design of all sewer facilities necessary to service the development shall be approved by the Municipal Authority and PaDEP. Applicant shall purchase from the Municipal Authority sufficient capacity for treatment of the sewage that the development generates at the Route 100 Facility. Applicant shall provide on the Property or other suitable property approved by the Township and Municipal Authority disposal fields with sufficient disposal capacity to treat the sewage that the development generates.

37. The final landscaping plan for the development shall be approved by the Board during land development and shall comply with the Township Code unless the Board grants waivers of certain provisions of the Code.

38. Applicant shall provide a blanket easement on the final land development plan in favor of the Township which shall allow the Township to provide public services such as sewer and trash service.

39. Applicant shall be permitted to provide on street parking on one side of the streets in certain locations throughout the development. Appropriate locations must be approved by the Township Engineer, Fire Marshal and Board during land development approval. Applicant shall prohibit on street parking on the other side of the internal streets and shall designate this side of the street as a fire lane. Applicant shall install signage approved by the Township as part of land development and include the parking restriction in the Association Declaration which shall be submitted to the Board and Township as part of land development and shall be reviewed and approved by the Township Solicitor prior to recordation of the final plan. The Township shall have the right to enforce the restrictions in the Declaration which prohibit parking on one side of the streets.

40. Applicant shall pay the Township's transportation impact fee based on Chapter 79 of the Township Code as calculated by the Township Traffic Engineer.

41. The lighting plan which was admitted as Exhibit A-24 is not approved as part of this Decision and instead shall be approved by the Board as part of land development. All lights in the development shall comply with the lighting standards in the Township Code and not emit glare beyond the Property boundary or project light upward. All lights installed in the rear of dwellings shall project down and not emit glare beyond lot boundaries or into the sky. The Association Declaration shall prohibit flood lights or lights in the rear of the lot which project upward or outward towards the rear lots in the Stonehedge development.

42. The Board shall determine where and if it wants Applicant to install streetlights as part of the land development plans.

43. The stormwater management design for the development shall be designed for the maximum allowable impervious surface permitted by the Ordinance (as opposed to the maximum impervious surface proposed by the Plans).

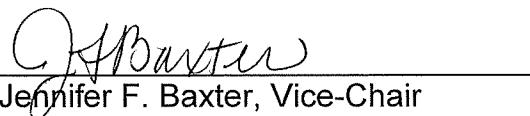
44. Notwithstanding anything to the contrary in the Ordinance, the setback for accessory structures shall be consistent with setbacks for dwellings.

45. Applicant and its successors and assigns in interest to the Property shall be strictly bound by this Decision.

**UPPER UWCHLAN TOWNSHIP
BOARD OF SUPERVISORS**



Sandra M. D'Amico, Chair



Jennifer F. Baxter, Vice-Chair



Andrew P. Durkin, Member

TOLL BROTHERS – 100 Greenridge Road – PARTY LIST

| Individuals Names | Address | CC Tax Parcel Number | Email | Phone | Legal Counsel |
|--|--|----------------------|-----------------------|--------------|--|
| Upper Uwchlan Township Planning Commission | | | mgcrotty@sianalaw.com | 610-321-5500 | Michael Crotty, Siana Law, 940 Pottstown Pike Suite 200, Chester Springs, PA 19425 |
| Gerald Stein & Lesley Dawson | 125 Greenridge Road | 32-1-21.1 | | | Jonathan Long, Bellwoar Kelly LLP , 126 W. Miner Street #1, West Chester PA 19382 |
| F. Owen Fields | 129 Greenridge Road | 32-1-21.1A | | | Jonathan Long, Bellwoar Kelly LLP , 126 W. Miner Street #1, West Chester PA 19382 |
| Marlowe Schaeffer Polk, MD | 28 Stonehedge Drive (approx. 800 ft) | 32-1-9.24 | | | Mark Freed MLF@curtinheefner.com Joanna Waldron JAW@curtinheefner.com |
| Greg Amicon | 301 Deerhaven Way (approx. 2200 ft) | 32-1-9.85 | | | n/a |
| Pam Bennett | 103 Stonehedge Drive (approx. 1400 ft) | 32-1-9.68 | | | n/a |
| Timothy Brennan | 102 Stonehedge Drive (approx. 1200 ft) | 32-1-9.78 | | | n/a |
| David Butte & Kellie Owen | 191 Shea Lane | 32-1-13.1J | | | n/a |
| Nancy Copp | 240 Greenridge Road (abuts) 264 Greenridge Road (approx. 300 ft) | 32-1-18.3 32-1-19 | | | n/a |
| Meredith Coppolino | 11 Lauren Lane (abuts) | 32-1-9.70 | | | n/a |
| Danielle Corsi | 412 Hilltop Circle | | | | n/a |

TOLL BROTHERS – 100 Greenridge Road – PARTY LIST

| Individuals Names | Address | CC Tax Parcel Number | Email | Phone | Legal Counsel |
|-------------------------|---------------------------------------|----------------------|-------|-------|---------------|
| Bonnie Crockett | 23 Stonehedge Drive (approx. 1200 ft) | 32-1-9.28 | | | n/a |
| James Eckert | 171 Shea Lane | 32-1-13.1L | | | n/a |
| Steven Egnacyk | 64 Stonehedge Drive | 32-1-9.72 | | | n/a |
| Karen Florentine | 79 W Indian Springs (approx. 1200 ft) | 32-1-9.32 | | | n/a |
| Karen & David Hendricks | 130 Shea Lane (approx. 800 ft) | 32-1-13.1C | | | n/a |
| John Hoffmeister | 41 Stonehedge Drive (approx. 800 ft) | 32-1-9.58 | | | n/a |
| Sharon Keenan | 181 Shea Lane (abuts) | 32-1-13.1K | | | n/a |
| Robin and Terry Kerwin | 112 Devon Circle | | | | n/a |
| Anna Lewis | 106 Devon Circle | | | | n/a |
| Richard Lipow | 43 Stonehedge Drive (approx. 500 ft) | 32-1-9.59 | | | n/a |
| John Lukens | 339 Styer Road (approx. 2000 ft) | 32-3-104.3 | | | n/a |
| Amanda & Miroslav Maraz | 8 Lauren Lane | 32-1-9.16 | | | n/a |

TOLL BROTHERS – 100 Greenridge Road – PARTY LIST

| Individuals Names | Address | CC Tax Parcel Number | Email | Phone | Legal Counsel |
|---------------------------------|---------------------------------------|----------------------|-------|-------|---------------|
| Stephen J & Brenda T. Merkins | 161 Shea Lane | 32-1-13.1M | | | n/a |
| Carl Broege & Patricia Mitchell | 136 Devon Circle (approx. 1600 ft) | 32-1-9.45 | | | n/a |
| Brian & Kristine Podvia | 47 E Indian Springs Drive | 32-1-9.19 | | | n/a |
| John & Sue Quake | 16 Lauren Lane | 32-1-9.17 | | | n/a |
| Jordan Rajan | 290 Greenridge Road | 32-1-9.2 | | | n/a |
| Greg Robinson | 331 Deerhaven Way (approx. 1400 ft) | 32-1-9.90 | | | n/a |
| Mark and Angela Robinson | 198 Greenridge Road | 32-1-18.2 | | | |
| Ben and Wendy Ronco | 95 Stonehedge Drive | | | | n/a |
| Alexandra & Michael Rose | 180 Shea Lane | 32-1-13.1H | | | n/a |
| Eric Scherer | 26 E Indian Springs Drive | 32-1-9.10 | | | n/a |
| David & Leann Smith | 32 E Indian Springs Drive | 32-1-9.11 | | | n/a |
| Kevin Socha & Jackie Stees | 12 Greenridge Road | 32-1-16.1 | | | n/a |

TOLL BROTHERS – 100 Greenridge Road – PARTY LIST

| Individuals Names | Address | CC Tax Parcel Number | Email | Phone | Legal Counsel |
|-------------------------------------|-------------------------------------|----------------------|-------|-------|---------------|
| Dara Trout | 307 Deerhaven Way (approx. 2000 ft) | 32-1-9.86 | | | n/a |
| David & Christine Vietri | 211 Greenridge Road | 32-1-21.6 | | | n/a |
| Jeff Keintzler & Elizabeth Woodward | 38 E Indian Springs Drive | 32-1-9.12 | | | n/a |